

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,) CASE NO. 1:21-cr-491
)
 Plaintiff,) JUDGE J. PHILIP CALABRESE
)
 vs.)
) DEFENDANTS' UNOPPOSED MOTION
 PAUL SPIVAK, et al.,) FOR A STATUS CONFERENCE
)
 Defendants.)
)

Defendants Paul Spivak, Olga Smirnova, and Charles Scott respectfully request that this Court set a status conference in this matter. A memorandum in support of this motion is attached hereto and incorporated by reference. The Government does not oppose this request.

Date: July 19, 2023

Respectfully Submitted,

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
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UNITED STATES OF AMERICA,) CASE NO. 1:21-cr-491
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 Plaintiff,) JUDGE J. PHILIP CALABRESE
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 vs.)
)
) MEMORANDUM IN SUPPORT OF
 PAUL SPIVAK, et al.,) DEFENDANTS' UNOPPOSED MOTION
) FOR A STATUS CONFERENCE
 Defendants.)
)

I. Procedural History

Defendant Paul Spivak was originally charged via criminal complaint on June 6, 2021. (Dkt., 1). The Government later indicted him on June 23, 2021. (Dkt., 13). On September 16, 2021, the Government filed a 47-Count Superseding Indictment, adding defendants Olga Smirnova, Charles Scott, Forrest Church, Richard Mallion, Jason Arthur, Larry Matyas, and Donald Howard. (Dkt., 33).

During the pendency of this case, Donald Howard was dismissed on March 30, 2023 (Dkt. 111). Mr. Matyas entered a guilty plea on April 5, 2023; Mr. Mallion entered a guilty plea on April 10, 2023; Mr. Arthur entered a guilty plea on April 20, 2023; and Mr. Church entered a guilty plea on April 29, 2023. On July 10, 2023, the Court granted the Government's request that all sentencing be continued and moved them to December 21, 2023.

On June 29, 2023, the Government filed a 50-Count Second Superseding Indictment, adding new counts against Mr. Spivak and adding Christopher Bongiorno as a new defendant. This Superseding Indictment was unsealed on July 10, 2023, and counsel for Defendants Spivak, Smirnova, and Scott were able to obtain a copy of the Second Superseding Indictment on July 13, 2023.

II. The Need For A Status Conference

Right now, in accordance with the Court's March 31, 2023 Pretrial Order 3, the Defendants must produce their discovery and any experts by August 29, 2023 and file their pretrial motions by September 30, 2023. (Dkt., 184). The Court also set a status conference for September 14, 2023, which is scheduled beyond the current August 29, 2023 discovery cut-off. (*Id.*). The Government's Second Superseding Indictment has injected significant uncertainty into the current case, and the Court's assistance is needed to address these new developments.

Accordingly, Defendants are requesting a status conference that will address, at a minimum, the following issues:

1. The applicability of the current case schedule;
2. The timing of the arraignments of Mr. Spivak, Ms. Smirnova, and Mr. Scott on the new charges, as well as continuation of their respective bonds;
3. A determination if the Government intends to file a Third Superseding Indictment;
4. The current status of discovery and whether the Government intends to produce additional discovery materials related to the new defendant, Christopher Bongiorno, or additional discovery materials related to the current defendants;
5. Whether the Government intends to produce an amended expert report in light of the addition of Mr. Bongiorno to the case;¹ and
6. Any other topics or concerns raised by the Court or any party.

The Government does not oppose this request.

¹ The parties intend to meet to discuss items 3, 4, and 5. In light of the tight time frame, the Defendants are still identifying these issues, though they may be resolved by the time a status conference is set by the Court.

III. Conclusion

As the Defendants' clock is ticking, the Defendants respectfully request that this Court hold a status conference as soon as possible.

Date: July 19, 2023

Respectfully Submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing ***DEFENDANTS' MOTION FOR A STATUS CONFERENCE*** was served through the Court's electronic filing system this 19th day of July, 2023. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system.

/s/ John R. Mitchell

Attorney for Defendant Paul Spivak